



Acquisition & Assistance Policy Directive (AAPD)

From the Office of the Director, Procurement Issued: September 13, 2002

AAPD 02-14

Re-negotiation of DBA rate for Direct and Host Country Contracts

Subject Category: Acquisition Management (AM);
Assistance (A)
Type: New Policy/Procedure

AAPDs provide information of significance to all agency personnel and partners involved in the Acquisition and Assistance process. Information includes (but is not limited to): advance notification of changes in acquisition or assistance regulations; reminders; procedures; and general information. Also, AAPDs may be used to implement new requirements on short-notice, pending formal amendment of acquisition or assistance regulations.

AAPDs are **EFFECTIVE AS OF THE ISSUED DATE** unless otherwise noted in the guidance below; the directives remain in effect until this office issues a notice of cancellation.

This AAPD: Is New Replaces/ Amends
CIB/AAPD No: 01-14

Precedes change to: AIDAR Part(s) Appendix
 USAID Automated Directives System (ADS) Chapter
 Code of Federal Regulations
 Other
 No change to regulations

Applicable to: Existing awards; Modification required:
 Effective immediately
 No later than
 As noted in guidance below
 RFPs/RFAs issued on or after the effective date of this AAPD; all other
Pending Awards, i.e., 8(a), sole source...
 Other or N/A

New Provision/Clause Provided Herein: Yes; Scheduled update to Prodoc: (insert date)
 No

(electronic signature)
Timothy T. Beans

The purpose of this directive is to update guidance relative to Defense Base Act (DBA) coverage and the DBA Waiver List.

USAID's contract with Fidelity and Casualty of New York to provide Defense Base Act (DBA) coverage to USAID direct and host country contractors includes a provision for periodic adjustment of the basic rate. The fixed rate for the first two years of the contract, July 1, 1998 - June 30, 2000, was \$1.84 per \$100 of employee remuneration. Based on recalculation of the initial rate (incurred losses divided by earned premium) the rate for the third year option period, July 1, 2000 through June 30, 2001, was \$1.54 per \$100 of employee remuneration. For the fourth year option period, July 1, 2001 through June 30, 2002 the rate is \$1.44 per \$100 of employee remuneration. **For the final option period, July 1, 2002 through June 30, 2003 the rate is \$1.44 per \$100 of employee remuneration.**

OBTAINING DBA COVERAGE

Applications for coverage should be made directly to:

Rutherford International, Inc.
5500 Cherokee Avenue, Suite 300
Alexandria, VA 22312

Points of Contact: Sara Payne or Diane Ford
(703) 354-1616

Hours of Operation are: 8 a.m. to 5 p.m. (Eastern Standard Time)

Telefax: (703) 354-0370 Website: www.rutherford.com

Applications may be requested by telephone or facsimile and coverage will be effective the day the covered individual leaves the United States. Applicants should request coverage in accordance with USAID Contract No. HNE-Q-00-98-00163-00 with Fidelity and Casualty of New York.

Rutherford International, Inc., the administrative agent for Fidelity and Casualty of New York, will require a faxed copy of the Application for Defense Base Act Coverage (see Attachment 1). Applications and complete information and instructions are available directly from Rutherford International, Inc or from the Rutherford web-site.

Copies of Department of Labor (DOL) forms necessary to make an initial report of injury or illness are available at DOL website: www.DOL.gov..

Coverage is effective on the date listed on the application form as the "coverage effective date" (the date the individual leaves the United States). "Date of application" is the date Rutherford invoices the applicant. For new business, the applicant has 10 days from the date of application (Rutherford's invoice date) to submit the premium. For renewal business, the applicant has 30 days from the date of application (Rutherford's invoice date) to submit the premium. Rutherford may adjust the application date, at its option, to meet particular circumstances.

COST OF COVERAGE

For the period July 1, 2002 through June 30, 2003, the rate is \$1.44 per \$100 of employee remuneration for all USAID financed contracts, subcontracts and subordinate contracts for both direct and host country contracts. For the purpose of this contract, employee remuneration is defined as salary plus overseas recruitment incentive and post differential, but excludes per diem, housing allowance, travel expenses, temporary quarters allowance, education allowance and other miscellaneous post allowances.

A policy directive will be issued to provide information on rates after June 30, 2003.

DESCRIPTION OF DEFENSE BASE ACT (DBA) COVERAGE

DBA coverage is worker's compensation insurance providing that employees may collect in the event that an employee is injured while working on a contract financed by the U. S. Government and performed outside the U.S. DBA coverage also pays benefits to dependents of employees in the event that an employee is killed as a direct result of the employee's employment under an U.S. Government financed contract. DBA coverage is required by statute for employees of contractors and subcontractors regardless of the duration of their assignment. It is over and above any State coverage. Subcontracts under USAID financed contracts are also included in the required coverage.

Personal Services Contractors (PSCs) are exempt from Defense Base Act coverage. PSCs are treated like direct-hire employees for worker's compensation purposes and are covered by the Federal Employees Compensation Act.

The current Defense Base Act **rate** does not apply to grants and cooperative agreements. Recipients of grants and cooperative agreements are required to obtain Defense Base Act coverage for employees of contractors who are awarded contracts under assistance instruments. Although the Defense Base Act **rate** does not apply to grants and cooperative agreements, recipients may negotiate applicable rates at the discretion of the insurance carrier.

WAIVER OF COVERAGE

DBA insurance coverage is required for employees of contractors (and their subcontractors) unless a waiver has been obtained from the U.S. Department of Labor (See FAR 28.305). Blanket waivers from Defense Base Act insurance requirements have been issued by the Department of Labor for foreign nationals in over 100 countries in which USAID has or had programs. Foreign national employees covered by this waiver (and/or their employers) are exempt from the requirement to secure Defense Base Act Insurance. Foreign national employees and their employers should be aware that even though they do not have to secure Defense Base Act coverage, foreign national employees must be provided worker's compensation benefits as prescribed in applicable foreign laws. However, the waivers do not apply to any employee who is:

1. A citizen of the United States;
2. A resident of the United States; or,
3. Hired in the United States.

The attached DBA Waiver List (Attachment 3) identifies all countries for which foreign national employees and/or their employers are exempt from the requirement to secure Defense Base Act coverage.

CONTRACT CLAUSE

As prescribed in AIDAR 728.309, the USAID Contracting Officer should add the supplemental coverage at AIDAR 752.228-3 to the clause specified in FAR 52.228-3.

DEFENSE BASE ACT (DBA) WAIVER LIST

| | | |
|-------------------------------------|-------------------------|-----------------|
| Afghanistan | Haiti | St Lucia |
| Albania | Honduras | St. Vincent |
| Antigua | Hungary | Senegal |
| Armenia | India | Serbia |
| Azerbaijan | Indonesia | Seychelles |
| Bahamas | Israel | Sierra Leone |
| Bangladesh | Italy | Slovak Republic |
| Barbados | Jamaica | Slovenia |
| Belarus | Jordan | Somalia |
| Belize | Kazakhstan | South Africa |
| Benin | Kenya | Sri Lanka |
| Bolivia | Korea | Sudan |
| Bosnia & Hercegovina | Krygyzstan | Swaziland |
| Botswana | Latvia | Syria |
| Brazil | Lebanon | Tajikistan |
| Bulgaria | Lesotho | Tanzania |
| Burkina Faso | Liberia | Thailand |
| Burundi | Lithuania | Togo |
| Cambodia | Macedonia | Tonga |
| Cameroon | Madagascar | Tunisia |
| Cape Verde | Malawi | Turkey |
| Chad | Mali | Turkmenistan |
| Chile | Mauritania | Uganda |
| Colombia | Mauritius | Ukraine |
| Costa Rica | Mexico | Uruguay |
| Cote d'Ivoire | Moldova | Uzbekistan |
| Croatia | Mongolia | Vietnam |
| Czech Republic | Montenegro | Western Samoa |
| Democratic Republic of the Congo | Morocco | Yemen |
| Djibouti | Mozambique | Yugoslavia |
| Dominica | Namibia | Zambia |
| Dominican Republic | Nepal | Zimbabwe |
| Ecuador | New Caledonia | |
| Egypt | Nicaragua | |
| El Salvador | Niger | |
| Equatorial Guinea | Nigeria | |
| Estonia | Oman | |
| Ethiopia | Pakistan | |
| Fiji | Panama | |
| Gambia | Papua New Guinea | |
| Georgia | Paraguay | |
| Ghana | Peru | |
| Grenada | Philippines | |
| Guatemala | Poland | |
| Guinea | Portugal | |
| Guinea-Bissau | Romania | |
| Guyana | Russian Federation | |
| | Rwanda | |
| | St. Christopher & Nevis | |

Attachment 1

Clearances:

KOhara, M/OP/OD: _____ Date: _____

AEisenberg, M/OP/P: _____ Date: _____

KTriplett, M/OP/E: _____ Date: _____

Drafted by: Glittle: M/OP/E: 6/20/02: dba2002.doc

